

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

BRAD and ANDREA HUTCHISON,)
NEW MEXICO CATTLE GROWERS')
ASSOCIATION, NEW MEXICO WOOL)
GROWERS, INC., NEW MEXICO FEDERAL)
LANDS COUNCIL, SOUTHWEST QUAY)
SOIL AND WATER CONSERVATION)
DISTRICT, ARCH HURLY CONSERVANCY)
DISTRICT, QUAY COUNTY FARM AND)
LIVESTOCK BUREAU, CURRY COUNTY, NEW)
MEXICO, and QUAY COUNTY, NEW MEXICO,)

Plaintiffs,)

v.)

Case No.: 4-14-cv-00509-JHP-PJC

DEPARTMENT OF THE INTERIOR,)
SALLY JEWELL, in her official capacity as)
Secretary of the U.S. Department of the)
Interior, DANIEL M. ASHE, in his official)
capacity as Director of the Fish and Wildlife)
Service, GARY FRAZER, in his official capacity)
as an Assistant Director at the Fish and Wildlife)
Service, and DIXIE PORTER, in her official)
capacity as the Field Supervisor, Oklahoma)
Ecological Services Field Office, Fish and)
Wildlife Service, Tulsa, Oklahoma,)

Defendants.)

**NOTICE OF FILING PLAINTIFFS' NOTICE OF OPPOSITION TO THE
SEPARATION AND REMAND OF CLAIMS BY U.S. JUDICIAL PANEL ON
MULTI-DISTRICT LITIGATION IN CONDITIONAL TRANSFER ORDER – 5**

In accordance with Rule 7.4 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation (“Panel”), Plaintiffs Brad and Andrea Hutchison, New Mexico Cattle Growers’ Association (“NMCGA”), New Mexico Wool Growers, Inc. (“NMWG”), New Mexico Federal Lands Council (“NMFLC”), Southwest Quay Soil and Water Conservation District (“Southwest Quay SWCD”), Arch Hurley Conservancy District (“AHCD”), Quay County Farm

and Livestock Bureau (“Quay County F&LB”), Curry County, New Mexico (“Curry County”), Quay County, New Mexico (“Quay County”), De Baca Soil and Water Conservation District (“DBSWCD”), De Baca County, Roosevelt Soil and Water Conservation District (“RSWCD”), Central Curry Soil and Water Conservation District (“CCSWCD”), Border Soil and Water Conservation District (“BSWCD”), Coalition of Renewable Energy Landowners Associations (“CRELA”), Lea Soil and Water Conservation District (“LSWCD”), Harding County, Union County, and Northeastern Soil and Water Conservation District (“NSWCD”) (collectively, the “Plaintiffs) do hereby give notice, by their undersigned counsel in this litigation, that they have filed a Notice of Opposition to Conditional Transfer Order – 5 (CTO-5) [Dkt. 92], in the *In re Endangered Species Act Section 4 Deadline Litigation*, MDL No. 2165, a matter pending before the United States Judicial Panel on Multidistrict Litigation. The relevant pleadings filed in the above-captioned matter are attached hereto as Exhibit 1.

Respectfully submitted,

/s/Karen Budd-Falen

Karen Budd-Falen (WY Bar #5-2467)

Budd-Falen Law Offices, LLC

300 East 18th Street

P.O. Box 346

Cheyenne, WY 82003

Telephone: (307) 632-5105

Facsimile: (307) 637-3891

Karen@buddfalen.com

AND

/s/Gerald Hilsher

Gerald Hilsher, OBA #4218

Robert J. Joyce, OBA #12728

Jessica John Bowman, OBA #30388

MCAFEE & TAFT,

A Professional Corporation

1717 South Boulder Ave., Suite 900

Tulsa, OK 74119

Telephone: (918) 587-0000

Facsimile: (918) 599-9317

Gerald.Hilsher@mcafeetaft.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2014, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants.

s/Gerald L. Hilsher

Gerald L. Hilsher

Exhibit 1

**BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

IN RE: ENDANGERED SPECIES ACT SECTION 4
DEADLINE LITIGATION

Hutchison, et al. v. Department of Interior, et al.)
N.D. Oklahoma, C.A. No. 4: 14-00509) MDL No. 2165

**NOTICE OF OPPOSITION TO
THE SEPARATION AND REMAND OF CLAIMS IN CTO-5**

In accordance with Rule 7.1(c) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, the Plaintiffs in Hutchison, et al. hereby notice their opposition to the Conditional Transfer Order - 5 ("CTO-5") and to the simultaneous separation and remand of claims in CTO-5.

We understand that the corresponding brief is due in 14 days.

Dated: December 9, 2014.

Respectfully Submitted,

/s/Karen Budd-Falen

Karen Budd-Falen (Wyo. Bar No. 5-2467)

300 East 18th Street

Post Office Box 346

Cheyenne, WY 82003

Telephone: 307/632-5105

karen@buddfalen.com

Counsel for Plaintiffs

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ENDANGERED SPECIES ACT SECTION 4)
DEADLINE LITIGATION)
Hutchison, et al. v. Department of Interior, et al.)
N.D. Oklahoma, C.A. No. 4: 14-00509) MDL No. 2165

PROOF OF SERVICE

I hereby certify that a copy of the foregoing *Notice of Opposition to the Separation and Remand of Claims in CTO-5* and this Certificate of Service was served electronically via the ECF system or by electronic mail on December 9, 2014, to the following:

Clerk, Northern District of Oklahoma
Tulsa, OK

Hao-Chin Hubert Yang
US Department of Justice
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044-0275
Hubert.yang@usdoj.gov

Counsel for Defendants: Department of the Interior, Fish and Wildlife Service, Daniel M. Ashe, Dixie Porter, Gary Frazer and Sally Jewell
N.D. Oklahoma, No. 14-cv-00509

Clifford Eugene Stevens
US Department of Justice (Envrmtl-Box 7611)
P.O. Box 7611
Washington, DC 20044-7611
Clifford.stevens@usdoj.gov

Counsel for Defendants: Department of the Interior, Fish and Wildlife Service, Daniel M. Ashe, Dixie Porter, Gary Frazer and Sally Jewell
N.D. Oklahoma, No. 14-cv-00509

Daniel Joseph Pollak
US Department of Justice (Envrmtl & Natural 601)
601 D Street NW
Washington, DC 20004-0663
Daniel.pollak@usdoj.gov

Counsel for Defendants: Department of the Interior, Fish and Wildlife Service, Daniel M. Ashe, Dixie Porter, Gary Frazer and Sally Jewell
N.D. Oklahoma, No. 14-cv-00509

James Jay Tutchton
WildEarth Guardians
6439 E. Maplewood Ave.
Centennial, CO 80111
Jtutchton@wildearthguardians.org
Counsel for WildEarth Guardians
MDL No. 2165

/s/Karen Budd-Falen